



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Walter H. Mawby, et al.
App. Serial No.: 09/902,023
Group Art Unit: 3634
Filed: July 11, 2001
Examiner: K. Tran
For: Method for Constructing A Multistory Building

AFFIDAVIT OF DARCY GARNEAU, AIA

Atty. Dkt. No.: 2051-00101

Date: December 22, 2004

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450
Sir:

PURPOSE OF DECLARATION

This declaration is made in support of the *Response to Final Office Action Dated October 25, 2004*, which is filed concurrently herewith.

STATEMENT OF FACTS

1. I, Darcy Garneau, AIA, state as follows:
2. I am over 18 years of age and competent to make this Affidavit;
3. I am an Architect licensed in the State of Texas;
4. I earned a Bachelor of Architecture from Montana State University and an MBA Finance and a Master of Architecture from the University of Illinois at Urbana Champaign;
5. I have practiced architecture for 18 years and have designed or participated in the design of over 50 multistory buildings;
6. I am not a named inventor in the above-identified pending patent application;
7. I am familiar with the invention claimed in the above-identified pending patent application;
8. I have reviewed U.S. Patent No. 6,405,496 to Stewart (the '496 patent), which is cited against the present application;
9. Based on my review of the '496 patent I can state that Stewart does not disclose the construction of large spans using tunnel-form construction. Specifically, every large span or area that is disclosed in the '496 patent is constructed using conventional column and plate construction. Most significantly, based on a review of the '496 patent using standard architectural drawing conventions, Figures 2-4 of the '496 patent each show exclusively the use of columns

(circled on Figure 3) and do not include any disclosure or mention of tunnels. To illustrate this fact, I have annotated selected Figures from the '496 patent and appended the annotated Figures hereto.

10. The '496 patent does not suggest that the large open areas shown in Figures 2-4 could be formed with tunnels and certainly does not suggest how such might be accomplished. In this regard, the '496 patent does not teach any advance in the art of tunnel-form construction and is no more relevant to the present invention than the other conventional tunnel-forming references cited in the present application;

10. In contrast, the present invention solves a problem that existed at the time of the '496 patent and was not solved by the '496 patent, namely the problem of creating large open areas using solely tunnel-form construction techniques;

11. The present invention solves the aforementioned problem by providing a first wall having a large opening therein and providing another wall (the "third wall") directly above the opened wall (the "first wall"). The third wall serves as a beam, thereby allowing construction of a much longer opening in the first wall and thus a wider span than would be possible using only techniques known before the present invention. This solution, which makes possible a great variety of structure configurations that were not previously possible, is an advance over the state of the art, including the '496 patent and is not obvious in view of the teachings of the art.

11. Further Affiant sayeth not.

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE

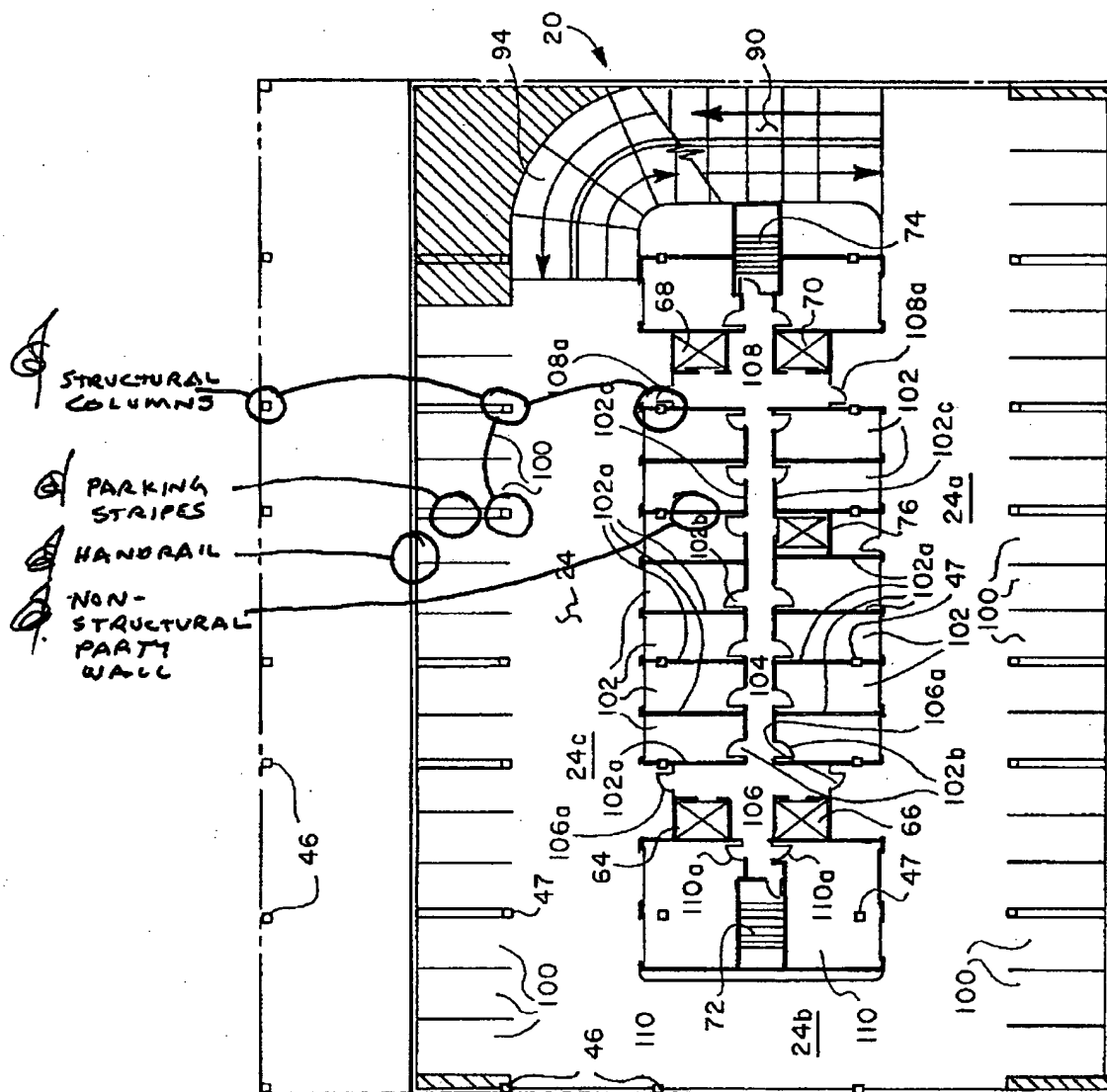
Full name: Darcy Garneau, AIA, RID

Signature: 

Date: 12-22-04

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Annotated by
Darcy Garneau
12/23/04